



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Moltech Corporation--Reconsideration
File: B-236490.2
Date: December 6, 1989

DIGEST

1. Reconsideration request is denied where the protester has presented no evidence that prior decision was based on factual or legal errors.
2. Protester is not an interested party eligible to protest award to another offeror under General Accounting Office Bid Protest Regulations where protester's proposal was properly rejected as late and protester thus would not be in line for contract award even if its protest were sustained.
3. Improper action will not be attributed to an agency's procurement officials on the basis of unsupported allegations, inference or supposition.

DECISION

Moltech Corporation requests reconsideration of our decision Moltech Corp., B-236490, Oct. 11, 1989, 89-2 CPD ¶ , denying Moltech's protest of its proposal as late under request for proposals (RFP) No. 271-89-8157, issued by the National Institute on Drug Abuse (NIDA), Department of Health and Human Services, for computer services to develop and maintain a database for therapeutic drugs.

We deny the request for reconsideration.

In its initial protest, Moltech contended that the Postal Service's delay in delivering the Moltech proposal constituted "government mishandling" within the meaning of Federal Acquisition Regulation (FAR) § 52.215-10, the late submission provision included in the RFP. Moltech also argued that had the RFP been properly classified as a research and development (R&D) acquisition, the RFP would have incorporated a different late proposal provision which would have allowed consideration of Moltech's proposal. Based on these two arguments, Moltech protested that its proposal should

have been considered by the agency, despite its late delivery.

In our decision, we found that the Postal Service's delay in delivering the proposal to NIDA did not constitute government mishandling for purposes of FAR § 52.215-10, since the term "government" in that provision refers to the procuring agency, not the Postal Service. See Machine Research Co., Inc., B-230188, Mar. 2, 1988, 88-1 CPD ¶ 224. Additionally, we dismissed as untimely Moltech's protest regarding classification of the RFP and application of the FAR late submission clause since that issue concerned an alleged impropriety apparent on the face of the solicitation which, under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1989), must be protested prior to the closing date for receipt of initial proposals. Subsequent to our decision, contract award was made to Biometric Research Institute.

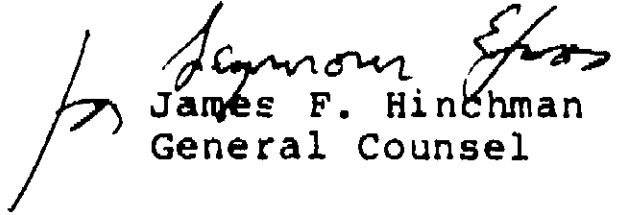
The only evidence Moltech now offers to support reconsideration of our prior decision is a broad assertion that it "has reason to believe that there has been impropriety in the selection and procedure for selection of the contract awardee" and a general statement that one of the awardee's senior scientists is a former program director with NIDA. Under our regulations, we will not consider any request for reconsideration which does not contain a detailed statement of the factual and legal grounds upon which reversal or modification of a previous decision is warranted. See 4 C.F.R. § 21.12(a). Here, while Moltech has made two general, vague assertions, it has not presented any argument or evidence which shows that our prior decision was based on any error of fact or law or information not previously considered. Accordingly, since Moltech has failed to demonstrate any specific grounds warranting reconsideration, its request for reconsideration is denied.

To the extent that Moltech's request for reconsideration is intended to raise a new ground of protest challenging award to Biometric, Moltech is not an interested party to maintain such a protest. The Competition in Contracting Act of 1984 and our regulations define an interested party entitled to pursue a protest as "an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract." 31 U.S.C. § 3551(1) (Supp. IV 1986); 4 C.F.R. § 21.0(a). Specifically, a party is not interested to maintain a protest if it would not be in line for an award if the protest were sustained. Applied Systems Corp.--Reconsideration, B-234159.2, Mar. 28, 1989, 89-1 ¶ 319. Here, because of its late proposal submission, Moltech was not a competitor under the RFP. Accordingly, even if we

were to resolve this new protest in its favor, Moltech would not be eligible for award under the RFP, and thus is not an interested party to challenge award to Biometric. Nuaire, Inc., B-221551, Apr. 2, 1986, 86-1 CPD ¶ 314.

In any event, while Moltech alleges that NIDA was biased in awarding the contract to Biometric, Moltech has provided no evidence in support of its allegation. Prejudicial motives will not be attributed to contracting officials on the basis of unsupported allegations, inference or supposition. Metrolina Medical Feer Review Foundation, B-233007, Jan. 31, 1989, 89-1 CPD ¶ 97; Mictronics, Inc., B-234034, May 3, 1989, 89-1 CPD ¶ 420. A bare, uncorroborated assertion of agency bias is insufficient to warrant further consideration by our Office. Mictronics, Inc., B-234034, supra.

The request for reconsideration is denied.


James F. Hinchman
General Counsel